

# **INNOCENCE PRESERVED**

## **Protecting Children**

**From**

## **Child Pornography**

**Background paper by the Social Action Commission  
of the Evangelical Fellowship of Canada  
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*This is an EFC background paper, a serious document created by a Task Force or Commission to encourage dialogue within our community. An EFC Position Paper has been officially endorsed by the Organization.*

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## **I. Introduction**

We live in a hyper-sexualized culture. Sex sells cars, clothes, liquor, travel and magazines. The highest rated television shows of the last decade depict people seeking and experiencing sexual intimacy casually, without commitment or the expectation of marriage. Movies depict graphic sexual encounters without public outcry. In fact, we watch tales of adultery for entertainment, forgetting that this grieves the heart of God.

Children are inducted into our hyper-sexualized culture through means such as toys, music, video games and children's television programs and movies. Girls as young as 5 years old dress up as their favourite rock star. Children's movies portray cartoon heroines who are dressed provocatively and behaving seductively. The role models our children see and the messages they hear are hyper-sexualized.

It is easy for both adults and children to become desensitized to sexual sin, and to accept our culture's guiding principle that choice determines whether sexual activity is acceptable. It is becoming taboo to criticize any consensual sexual relationship between adults. The limit of not having sex with children has remained to the present, although the age of consent to sexual activity is very young, at 14 years of age. Yet a judge in a B.C. court hearing a case on child pornography raised the prospect that society's views may change over time to the point where child pornography becomes acceptable. On the first day of hearing the case, Justice Mary Southin said, "We have to recognize that our views about these matters might change radically."<sup>1</sup>

One of the factors which contributes to the growing crisis of child pornography is the spirit of the age of our culture. While sexual deviancy is nothing new, the spiritual context of our culture and the developments in technology have come together to create a crisis in the protection of children. Our culture has a dominant set of commonly held assumptions about the nature of the world, known as "postmodernism." These assumptions are characterized by a belief in autonomy, that we are a law to ourselves, rather than under God's creational law. This belief in autonomy allows us to try to re-make ourselves and our world. Truth is self-made in a postmodern understanding of the world. We create our own truth, and there are no God-given norms or absolutes. In effect, as a society, we are choosing to do what is right in our own eyes rather than looking to God for his revealed truth.

A postmodern approach to sexual activity allows people to act in any way they choose. There are no boundaries and there is no authority which can deny one's choice. Sexual activity with children is one of the last taboos and this is slowly breaking down. This belief that we make our own truth and are a law to ourselves, taken to its logical extension, would allow the consump-

tion of child pornography and sex with children. The convergence of this spiritual context of postmodernism and the developments in computer technology, such as the Internet, create a situation of increasing risk for children. However, even within a postmodern understanding of the world, one's rights may be limited if his or her action harms others.<sup>2</sup>

As Christians, we must not become so deadened to sexual sin that we neglect our responsibility to protect children and to seek appropriate legal and societal treatment of them.

This paper examines the prevalence and problems of child pornography. It outlines a Christian approach to the issue and suggests avenues for response. Discussion questions are included in the paper to provoke further thought and discussion on child pornography and related issues.

## **II. What does Canada's law say?**

The role of the state is to rule with justice for all, with prejudice toward none, protecting the weak and powerless. Psalms 72 and 82 describe God helping the vulnerable and stopping their oppressors. God condemns those who oppress the fatherless (Deut. 27:19, Mal. 3:5). It is an essential role of the government to protect the basic rights of the innocent. The state legally protects the basic characteristics of life needed for children to develop. Paul describes the government as God's servant to punish those who do evil (Rom. 13:1-7). Our government is called by God to protect children from harm and to punish those who oppress them.

In Canada, child pornography is regulated primarily through the *Criminal Code*. Secondary means of regulating child pornography include the *Canada Customs Act* which is administered by the Canada Customs and Revenue Agency and Internet service providers' Codes of Conduct.

In addition, Canada is a signatory to the *UN Convention on the Rights of the Child*. Article 34 of the Convention requires all state parties to undertake to protect children from all forms of sexual exploitation and sexual abuse. In particular, state parties are encouraged to adopt national, bilateral and multilateral measures to prevent (a) the inducement or coercion of a child to engage in any unlawful sexual activity, (b) the exploitative use of children in prostitution or other unlawful sexual practices and (c) *the exploitative use of children in pornographic performances and materials* (emphasis added).

### **A. Criminal Code prohibitions**

Section 163.1 of the *Criminal Code* was enacted in 1993. It defines child pornography and creates several criminal offences with respect to the production, possession, sale and distribution of child pornography. It also creates a number of defences to child pornography related offences.

## **INNOCENCE PRESERVED: PROTECTING CHILDREN FROM CHILD PORNOGRAPHY**

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There are three elements to the definition of child pornography in section 163.1(1). They are:

- a.** a photographic, film, video or other *visual representation*, whether or not it was made by electronic or mechanical means, that shows *a person* who is or is depicted as being *under the age of eighteen years* and is engaged in or is depicted as *engaged in explicit sexual activity*, or
- b.** the *dominant characteristic* of which is *the depiction, for a sexual purpose, of a sexual organ or the anal region of a person under the age of eighteen years*; or
- c.** any *written material or visual representation that advocates or counsels sexual activity with a person under the age of eighteen years* that would be an offence under this act. (emphasis added)

Sections 163.1(2) to (4) prohibit the making, printing, publishing or possession of child pornography for the purpose of publication, the import, distribution, sale or possession of child pornography for the purpose of distribution and the bare possession of child pornography.

Despite the general prohibitions pertaining to child pornography, a number of key defences exist. Section 163.1(6) states that a judge must not convict a person of a child pornography-related offence if the material in question has artistic merit or a scientific, medical or educational purpose. Similarly, if the material in question serves the public good, a person cannot be convicted of a child pornography-related offence. In addition, an individual may be acquitted if the individuals portrayed in the pornographic material are 18 years of age or older.

### **B. Court decisions**

A number of individuals have been charged with and successfully convicted of possession of child pornography since section 163.1 was enacted. The types of material possessed include photographs, videotapes, written materials and computer files. In addition to convictions for possession of child pornography, a number of individuals have been charged with possession for the purpose of distribution. In such cases, the material possessed almost invariably consisted of computer files, which were obtained, accessed or transmitted via the Internet or bulletin board systems.

#### **i. R. v. Langer**<sup>3</sup>

The child pornography law was first tested in the Eli Langer case. In 1993, Mr. Langer exhibited in an Ontario art gallery artwork depicting children performing sexual acts. Charges against Mr. Langer and the art gallery were dropped,

but the Crown applied for permission to destroy the paintings and drawings. Mr. Justice David McCombs ruled in April 1995 that although he found Mr. Langer's artwork "shocking and disturbing," it was not illegal. The judge found that the artwork had artistic merit and he was not convinced that it would "pose a realistic risk of harm to children."<sup>4</sup> The judge rejected the constitutional challenge to the child pornography law by Langer and groups representing artists and civil libertarians. The judge identified the purposes of the child pornography provision to be:

- 1) protection of children from sexual abuse;
- 2) protection of children from re-victimization through dissemination of records of abuse; and
- 3) protection of children from paedophiles, who use pornography to reinforce cognitive distortions.

Each of these purposes was thought to be sufficiently important to warrant limiting the constitutionally protected freedom of expression. As a result, Justice McCombs said the law was a reasonable restriction on freedom of expression, which could be upheld. Both sides appealed to the Supreme Court of Canada, but the court denied their requests for appeal.

## **ii. R. v. Sharpe<sup>5</sup>**

The child pornography provision came under attack again in November 1998. John Robin Sharpe was charged with two counts of possession of child pornography and two counts of possession of child pornography for the purpose of distribution.

Canada Customs seized a number of photographs and computer disks containing sexually explicit stories written by Mr. Sharpe. Police seized from Mr. Sharpe's home over a dozen boxes of photographs of naked children, some of whom were engaged in sexually explicit poses or sexual acts.

Mr. Sharpe challenged the possession provision, claiming it placed unnecessary limits on his freedom of expression. Mr. Sharpe argued that the possession provision was too broad, as it penalized not only those who created child pornography using actual children, but also those who created child pornography out of their own imaginations. The Supreme Court of Canada upheld the prohibition on possession of child pornography in January 2001. Chief Justice McLachlin, writing for the majority, read in two exceptions to the general law:

- any written material or visual representation created by the accused alone, and held by the accused alone, exclusively for his or her own personal use;
- any visual recording, created by or depicting the accused, provided it does not depict unlawful sexual activity, is held by the accused exclu-

sively for private use and was created with the consent of those persons depicted.

The Chief Justice also defined the parameters of the artistic merit defence, “any objectively established artistic value, however small, suffices to support the defence.”

### **iii. R. v. Sharpe**<sup>6</sup>

After the Supreme Court of Canada upheld the prohibition on possession of child pornography, the B.C. Supreme Court ruled on the charges against Mr. Sharpe. He was convicted on charges of possession of child pornography in relation to photographs. However, Justice Shaw ruled that Mr. Sharpe’s stories glorifying sexual abuse of children were not “child pornography” within the meaning of the Criminal Code because they did not “advocate or counsel” sexual activity with children. Justice Shaw also ruled that even if the stories were considered child pornography, the artistic merit defence applied. Two experts had testified that the stories had some literary merit because they had basic literary components such as character development and plot. Under the Supreme Court of Canada’s test, therefore, the artistic merit defence applied even though there was evidence that Mr. Sharpe intended to distribute the stories to other paedophiles for their stimulation.

## **III. How prevalent is pornography?**

### **A. General statistics**

Adult pornography has become a thriving \$15-billion industry in North America. In 1998, 8,400 adult videos were produced, generating revenues of \$6.3 billion annually.<sup>7</sup> Pornography is peddled through all sorts of media, including X-rated videos, 1-900 sex telephone lines, adult video software and the Internet. Adult magazines sold in Canada, such as *Penthouse* and *Hustler*, started publishing more graphic photos in the summer of 1998. These photos now show vaginal and anal penetration, oral sex and urination. The Ontario Provincial Police and a spokesperson for *Penthouse* magazine commented that there has been little public outcry over the changes.<sup>8</sup>

**Pornography is  
peddled through  
all sorts of media**

Unlike adult pornography, which is commercially available and readily accessible throughout Canada, child pornography is generated and distributed primarily through underground networks. It is not produced for commercial reasons, but traded by paedophiles. In the past, child pornography was obtained through face to face meetings, often outside of Canada. These exchanges required a relationship with another person and a level of trust in that person. However, due to technological advances, at least 90% of child

pornography is distributed and imported electronically. People need only a computer to obtain it; there is no relationship and no trust necessary. This makes the prevalence of child pornography in Canada hard to gauge. In 1999, the Ontario Provincial Police Child Pornography Unit laid 104 charges against 31 individuals in Ontario. This unit is the largest in



**Is pornography discussed in your church or small groups? Why or why not?**

Canada, with 15 full-time officers. According to Detective Inspector Robert Matthews, officer in charge of the unit, his unit could be more than doubled and the officers would still be very busy investigating child pornography in Ontario. He states, "Canadians produce as much or more child pornography, per capita, as any other developed country."<sup>9</sup>

### **B. The role of the Internet**

The Internet has greatly increased the availability of pornography and child pornography. Pornographers are able to generate, download and distribute pornographic images with relative ease.<sup>10</sup> In addition, computer bulletin boards may be used to circulate mailing lists and identify sources of child pornography.

Detective Noreen Waters of the Vancouver Police Department, testifying as an expert witness in a child pornography case, observed that with the advent of the Internet there has been a veritable explosion of the availability of child pornography.<sup>11</sup> In one recent case, police arrested a California man who had been broadcasting his abuse of an 8 year-old boy via live feed to the Internet.<sup>12</sup>

According to Canadian law enforcement officials, "The majority of the child pornography being created and distributed today is communicated by computer through the Internet",<sup>13</sup> rendering the personal hand-to-hand exchange of child pornography virtually non-existent. They also state:

Because child pornography is now transmitted by way of the Internet and traded privately (and because of its illegality), the creation and distribution of such pornography are largely shrouded in secrecy and not easily detected.<sup>14</sup>

Despite the difficulties of detection and enforcement, members of the Ontario Provincial Police Child Pornography Unit have seized thousands of images of child pornography since the possession of child pornography was made illegal in 1993. In November 1997, police arrested a Mississauga resident and seized 40,000 computerized image files, containing child pornography which depicted young prepubescent and pubescent children engaged in

numerous explicit sex acts with adults and other children.<sup>15</sup> In April 1998, Timmins resident Veeshong Wong was convicted of possessing child pornography. Police seized 400 images of young boys in March 1998, which Mr. Wong had downloaded from the Internet and compiled in albums. As well as a jail term, Mr. Wong was prohibited from installing Internet services in his home during his two year probation term.<sup>16</sup>

Adult pornography sites on the Internet try to lure innocent browsers, including children, into visiting their sites. In this way children are affected by adult pornography. Our concern ought to be not only with child pornography itself on the Internet but also the ease with which children become vulnerable to adult pornography sites. An analysis of 75,000 web pages containing pornography found that 19,000 pages contained one or more of the 120 most popular brand names, including Disney, Barbie and Nintendo. These pages would be listed by web search engines which search for word patterns. These key words indicate that children are one of the targets of these Internet pornography site operators.<sup>17</sup>

#### **IV. What are the effects of child pornography?**

There are some who say that pornography has no effect on its viewers. However, graphic presentations do shape the attitudes and actions of their audience. Evidence of this is found in the billions of dollars spent annually on advertising. The National Foundation for Family Research and Education (NFFRE) conducted a meta-analysis, an examination of 74 studies on the impact of pornography, and found statistical confirmation of a link between the consumption of pornography and an array of sexually deviant behaviours and attitudes. NFFRE states: "The results are clear and consistent: exposure to pornographic material is related to the development of sexually deviant tendencies, committing sexual offences, experiencing difficulties in one's intimate relationships, and accepting the rape myth."<sup>18</sup> Child pornography harms children and has negative effects on society as a whole.

**Child pornography  
violates appropriate  
child development**

##### **A. Effects on children**

Child pornography harms children, physically, emotionally, intellectually and spiritually. Child pornography violates appropriate child development. There is a God-given norm of child development in which children mature socially, emotionally and physically. We see God's design or creation order in the ways that children grow and develop. In the course of normal development, every child passes through a number of critical stages in moral, psychological and physical development. Completion of these stages forms the foundation essential to the formation of a healthy person. While a child

who has gone through puberty is physically prepared to reproduce, in other important ways, they are not ready for sexual activity. Physical maturity generally precedes by several years the attainment of psychological, emotional, moral and social maturity. In Canadian society, we recognize the developing social, intellectual and emotional maturity by withholding certain legal rights from those who are known to be too young to bear the responsibility attached to those rights (e.g. the right to drive, the right to consent to medical treatment, the right to smoke, the right to vote). Child pornography violates this norm of legitimate child development. It undermines and abuses both child development and sexuality.

Child pornography made in Canada often records the abuse of children.

**Child pornography  
takes a heavy emotional  
toll on its victims**

In seeking to discover the extent of child pornography in Canada, the federal government has undertaken research to determine the sources of child pornography. The Committee on Sexual Offences against Children and Youths, known as the Badgley Committee, was appointed by the Ministers of Health and Justice and issued its report in 1984. The Committee found that there was an informal and fragmented system producing child pornography in Canada, which almost invariably involved the sexual abuse of children.<sup>19</sup>

Child pornography takes a heavy emotional toll on its victims. Children must face the devastation of abuse, as well as the knowledge that there is a visual record of that abuse. The child is harmed not only in the initial abuse but also in the viewing and circulation of the record of the abuse. The child may be a recurring object of sexual gratification to the child molester who has created the child pornography. As well, the child may be haunted by the prospect of its distribution or that it may be used against him or her one day.

According to the child advocacy group ECPAT,<sup>20</sup> “Children who have been abused in the production of pornography demonstrate a high multitude of symptoms: emotional withdrawal, anti-social behaviour, mood swings, depression, fear and anxiety. They are at high risk to later become perpetrators themselves. The most destructive feelings those children carry are guilt and shame.”<sup>21</sup> Dr. Peter Collins, a Forensic Psychiatrist who has testified in a number of child pornography cases, has indicated that “50 percent of the children who have been involved in the creation of child pornography have a higher risk for depression, relationship difficulties, problems trusting people, sexual problems, substance abuse and suicidal behaviour.”<sup>22</sup> In addition, one judge has noted that the parents of children who have been sexually abused in the production of child pornography continue to feel violated and humiliated; they are concerned about who has access to the pornographic images and how far they will spread.<sup>23</sup>

Children are harmed by child pornography even when the child pornog-

raphy depicts fictional or computer-generated children and not actual children. Child pornography is used in the seduction process to persuade children that sexual interaction with adults is appropriate. As well, child pornography promotes the idea that children are legitimate objects of adult sexual gratification. This helps to persuade adults or children that it is acceptable and normal for children to receive and reciprocate sexual overtures by adults. A societal perception that children are legitimate objects of sexual desire for adults leaves children vulnerable to further abuse.

Child abuse has spiritual effects on children. They may feel abandoned or betrayed by God, unable to trust him or believe that he loves them. They may have difficulty believing that Jesus has triumphed over sin and death. They may have a distorted understanding of the place of sexuality in the world and may not believe that it matters to God what they do with their bodies. They may wrongly believe that they are no longer acceptable to God because of the abuse to which they have been subjected. These are lies that can spiritually oppress children who have been abused and whose abuse has been recorded.

 **Imagine if your child were involved in child pornography. How would you feel?**

### **B. Effects on paedophiles**

Another segment of Canadian society that is affected by child pornography is comprised of those who commit sexual offences against children or are predisposed to do so. Child pornography legitimizes the belief that child sexual abuse is appropriate, and incites child molesters to offend. Thus, child pornography creates temptation for individuals with paedophilic tendencies or inclinations and puts children at greater risk.

Child pornography reinforces paedophiles' belief that sex with children is appropriate. Child molesters justify their actions through cognitive distortions or false beliefs, such as the perception that the child initiated or enjoyed sexual contact, or that the child is a possession to be used at will. These cognitive distortions influence the child molester's actions throughout the chain of events leading up to and following the commission of an offence. Child molestation is rarely a spontaneous or unplanned act. A great deal of planning and a series of deliberate decisions lead up to the commission of the offence.<sup>24</sup> Child pornography reinforces child molesters' cognitive distortions that their actions are acceptable and encourages them along the path to committing an offence. In a study by Bill Marshall, Professor of Psychology at Queen's University, over 40% of rapists reported that they view the widespread availability of pornography as a contradiction to society's response to their crime. "These rapists suggested that pornographic depictions of rape,

being readily available as entertainment, had led them to conclude that most people did not really think forced sex was wrong but simply took a public stance that it was.”<sup>25</sup> While child pornography may not be the direct cause of all sexual offences against children, it is known to reinforce cognitive distortions in the mind of the child molester.

Pornography incites the molestation of children. In a study of sex offenders and sexually explicit pornography, Dr. Marshall found that slightly more than one third of the child molesters claim to have been incited to commit an offense by exposure to very sexually explicit materials. According to this study, sex offenders who came into contact with graphic pornography unintentionally were incited to offend and it was used by sex offenders in their deliberate preparations to offend.

For some of them, the role of sexual depictions as an instigator to offend was accidental, or at least the stimuli were not deliberately sought out to excite them to offend. However, amongst those child molesters who were incited, 53% of them deliberately used the stimuli in their typical planned preparation for offending. . . .<sup>26</sup>

In other research, Silbert and Pines interviewed 200 female prostitutes, 60% of whom were under 16 years of age, about rape experiences and sexual victimization they experienced independent of their prostitution. One hundred seventy-eight (178) of the women reported juvenile sexual abuse before becoming a prostitute. Of these 178 women, 22% mentioned varied uses of pornography by the offender either to try to entice the victim, to justify their actions or to arouse themselves in the presence of the victim prior to the offense.<sup>27</sup>



**How do you guard  
against the temptations of legal  
pornography in media  
or on the Internet?**

We must also take into consideration the addictive nature of pornography. Ontario resident John McCluskey, a church-going father of three, is serving a sentence for exposing himself to children. McCluskey found that exposure to child pornography on the Internet fueled his sexual tension to such a point that he would seek out children to whom he would expose himself. McCluskey says that Internet access to large amounts of child pornography quickly became addictive. McCluskey has since given away his computer. When he was sentenced in Trenton Provincial Court in January 1999, he asked the judge to make an order prohibiting him from having an Internet account. Judge Stephen Hunter granted his request.<sup>28</sup>

A study published in the March 2000 issue of the journal *Sexual Addiction and Compulsivity* calls Internet pornography a hidden public health hazard that is exploding because few recognize it or take it seriously. The survey polled 9,265 men and women who admitted searching the Internet for sexually oriented sites. At least 1% of those surveyed were addicted to online sex.

The study also found that one third of Internet users visited some type of sexual site. From their findings, the researchers estimate that 200,000 of the 20 million people who visit sexual sites each month are addicted to Internet pornography. One of the study's authors noted that the number is likely much higher because the survey respondents were self-selected.<sup>29</sup>

### **C. Effects on society**

A distorted view of children is one result of the acceptance of child pornography.

According to UNESCO:

Repeated and relentless exposure to paedophile writing, essays and images could mislead children and the general public into thinking that there is nothing wrong with free sex for children of any age, that there is nothing illegal or harmful with the sexual abuse of children or in displaying such acts through pornography or paedophile websites on the Internet. Many paedophile sites aim precisely at proving that their deviant behaviour is "normal" or "acceptable", by the very fact that their writings are openly and prominently displayed on the Internet.<sup>30</sup>

Child pornography reinforces the idea that children may be seen as acceptable objects of adult sexual desire. This is the first step towards opening the door to the acceptance of "intergenerational sex" or paedophilia.

While some doubt that paedophilia could ever become socially acceptable, there are some recent developments which indicate that it is possible to move in that direction. The American Psychiatric Association's manual on mental disorders, DSM- IV, defines paedophilia as a disorder only if the person feels anxious about molesting children or is impaired in his work or social relationships. This 1994 manual does not consider it a disorder to molest children. In 1990, the *Journal of Homosexuality* published a special two volume issue on adult-child sex entitled "Male Intergenerational Intimacy." Many of the articles explore the benefits of adult-child sexual relationships for the adult, the child and the child's family.<sup>31</sup> John Robin Sharpe, a B.C. man recently charged with possession of child pornography, is an advocate of adult-child sex. He challenged the constitutionality of the child pornography law, asserting that there was no harm in some child pornography and that the law prohibiting possession of child pornography infringed his privacy rights.

In his introduction to the *Report of the Special Advisor to the Ministry of National*



**Have you seen or  
read anything  
that portrays  
children as legitimate  
objects of sexual desire?  
How did you respond?**

*Health and Welfare on Child Sexual Abuse in Canada*, the Special Advisor made the following remarks:

The sexualization of children in advertising, the presence of child pornography and the reinforcement of the male macho model is not helping us to develop a more nurturing society, where vulnerable members are respected and protected.<sup>32</sup>

The sexual abuse of children is symptomatic of deeply rooted societal values which tolerate and thereby permit the misuse of power and authority against vulnerable populations, including children.<sup>33</sup>

The various forms of sexual exploitation of children are integrally linked. Child pornography reinforces the cognitive distortion that children are legitimate objects of sexual desire, which in turn legitimates child abuse and child prostitution. This notion that children are legitimate objects for sexual gratification also encourages a low age of consent for sexual activity.

What happens to a society that does not protect some of its most vulnerable members from harm, from sexual predation and from exploitation? When we abrogate our responsibility to protect and nurture children, as a society, we do injustice.

## **V. What is a Christian approach?**

As Christians, we embrace the use of God-given talents in artistic creativity. We uphold freedom of expression and believe that freedom needs to be understood and protected. However that freedom has limitations and cannot be at the expense of children.

While the Bible doesn't speak directly about child pornography, it does give instruction concerning the way we should live. These instructions fit within a framework of biblical principles on caring for the vulnerable, protecting human dignity and upholding family integrity.



**Are there any other verses or biblical principles that are relevant to this issue?**

### **Care for the Vulnerable**

Caring for the vulnerable is enjoined by the command to "Love your neighbour as yourself" (Lev. 19:18, Luke 10:27). In both the Old and New Testaments, the people of Israel and the followers of Jesus were commanded to care for children

as well as the alien, the widow, the orphan, and the poor. In fact, the Bible condemns those who do not care for vulnerable children. We read in the Old Testament that God works on behalf of the fatherless (Deut. 10:18) and condemns those who oppress them (Deut. 27:19, Mal. 3:5). As

a society, we invite God's judgment if we neglect to protect children. This principle of caring for the vulnerable is reflected in our society's concern for the poor and the vulnerable, for those who are unable to care for and defend themselves. This is particularly true of our laws protecting children from harm.

Children are among society's most vulnerable persons. They need adults to protect, guide and provide for them. Children's size and impressionable nature make them vulnerable to abuse.

A child's trust is violated when he or she is abused by adults. Children must not be used as objects of violence or sexual perversion in pornography. It is the responsibility of society to protect children from sexual abuse and exploitation.

### **Protect Human Dignity**

The Bible's account of God creating humankind in His image and loving us enough to redeem *us* through the sacrifice of his Son is the foundation for our belief in the worth of each human being. God created humankind as distinct from the rest of creation and gave us the responsibility to care for creation. The fact that Jesus came to earth, fully God and fully man, causes us to respect the place of humankind in the eyes of God.

Flowing from this respect for human dignity is our desire to treat people as persons, not as objects or playthings. Pornography treats people as objects for the gratification of sexual desire. It focuses only on the sexual dimension of human nature to the exclusion of all else. This distorts the viewers' perspective of people, their worth and their proper place in society.

### **Uphold Family Integrity**

As Christians, we celebrate wholesome sexuality, the wonderful opportunity of enjoying each other and creating life within marriage. "For this reason a man will leave his father and mother and be united to his wife, and they will become one flesh" (Gen. 2:24).

Outside of that bonding, sexual intimacy loses its purpose and meaning. Pornography, by depicting sexual experience outside of a loving, mutually supportive marriage, reduces sexuality merely to the physical component. Instead of supporting healthy sexual relationships within marriage, pornography serves to stimulate sexual appetites divorced from all human relationships.

Pornography depicting children is a further distortion because it treats children as objects for sexual gratification. While adults may embrace sexual intimacy within marriage as God's good gift, it is perverse to pursue this kind of intimacy with children.

## **Conclusion**

These biblical principles compel us to oppose the production, publication, distribution, sale and possession of child pornography. Child pornography exploits the vulnerable, violates human dignity and is harmful not only to its participants but also to Canadian society as a whole.

## **VI. How can we respond?**

While we have reason to hope we'll be successful when we act on this issue, our actions are ultimately motivated by obedience to God. We can take action against child pornography in many of our roles in life, as individuals and in groups. The Evangelical Fellowship of Canada is active in public policy advocacy and education on child pornography and related issues.

### **As individuals**

- pray for the good of our country
- be accountable to others, avoid temptation
- evaluate what you see and the programs and movies that you watch
- participate in community awareness initiatives like the White Ribbon Against Pornography campaign sponsored by Canadians Addressing Sexual Exploitation

### **As citizens**

- make complaints to others when you see pornography, e.g. television broadcasters, political representatives, the police; action against pornography is particularly influenced by “community standards” which are established through people complaining
- communicate your concerns about child pornography to your Member of Parliament and provincial representatives and urge them to:
  - uphold the child pornography law and keep the current definition of child pornography
  - provide additional training and resources for police units to investigate child pornography
  - seek further regulation of the Internet
  - require all Internet Service Providers to adopt Codes of Conduct that prohibit the distribution of child pornography via the Internet
  - require Internet Service Providers to report reasonable beliefs that customers are distributing child pornography
  - create public education campaigns to warn children, parents, teachers and others about the dangers of child pornography and sexual predators on the Internet

**As consumers**

- contact the advertisers or sponsors of programs or advertisements which are objectionable
- stop shopping at stores which sell or display sexually explicit material. Let them know why you will not shop there in future. Tell your friends and neighbours about your decision

**As parents**

- teach your children about healthy sexuality in an age appropriate way
- monitor what your children watch on television, movies and the Internet; talk to them about what they see if it's inappropriate
- Internet proof your child (see Tips for Internet Use in Appendix B)

**As churches**

- pray for the good of our country
- set up accountability groups for those who are interested; many Christians struggle with an addiction to pornography
- address the issue of pornography in small groups or through sermons

**Related Issues**

We know that issues of child sexual exploitation are inextricably linked. The age of consent for sexual activity, child prostitution, child pornography and child abuse are all interconnected. As well, the sexual exploitation of children is affected by poverty and homelessness. Youth who are abused at home often run away. Living on the streets, they are vulnerable to abuse and exploitation and may turn to prostitution as a way to obtain money. We can also help to protect children by taking action on these related areas of sexual exploitation. (For more information see “Issues” under the Explore Social Issues section on the web site at [www.evangelicalfellowship.ca](http://www.evangelicalfellowship.ca) or call 613-233-9868).

We can take action on these issues by urging the government to raise the age of consent to 18 years, increasing efforts to prevent and alleviate poverty and homelessness, and finding ways to assist juvenile prostitutes.

**VII. Conclusion**

Child pornography is intrinsically destructive, particularly to children, both those who are used in its production and those who stand to be harmed by its existence in whatever form. We are called to love and protect children, and to respect the dignity given to them by God. We are called to treat people as people, not as objects for sexual gratification or playthings. Child pornography harms children, creates temptation and legitimation for child sex offenders and neglects our societal responsibilities to care for the vulnerable in our midst.

## **APPENDIX “A”**

### **Canadian Organizations to Contact for Further Resources on Pornography**

Canadians Addressing Sexual Exploitation (C.A.S.E.)  
Parkway Postal Outlet, Box 62569  
85 Ellesmere Rd.  
Scarborough, ON M1R 5G8  
Ph. (416) 412-6065, Fax (416) 412-1321  
Web site: [www.c-a-s-e.net](http://www.c-a-s-e.net)

Canadians for Positive Community Standards  
P.O. Box 47565  
Hamilton, ON L8H 7S7  
Ph. (905) 692-3533, Fax (905) 692-4835

Evangelical Fellowship of Canada  
MIP Box 3745  
Markham, ON L3R 0Y4  
Ph. (905) 479-5885, Fax (905) 479-4742  
E-mail: [efc@efc-canada.com](mailto:efc@efc-canada.com)  
Web site: [www.evangelicalfellowship.ca](http://www.evangelicalfellowship.ca)

Focus on the Family Canada  
P.O. Box 9800, Stn. Terminal  
Vancouver, BC V6B 4G3  
Ph. 1-800-661-9800, Fax (604) 539-7900  
E-mail: [letters@fotf.ca](mailto:letters@fotf.ca)  
Web site: [www.fotf.ca](http://www.fotf.ca)

National Foundation for Family Research and Education  
PO Box 417, #440 – 10816 Macleod Trail South  
Calgary, AB T2J 5N8  
Ph 1-800-727-4929, Fax (403) 254-9862  
E-mail: [nffre@nffre.com](mailto:nffre@nffre.com)  
Web site: [www.nffre.com](http://www.nffre.com)

## **APPENDIX “B”**

### **Tips for Internet Use**

If your child is old enough to search the Internet without adult supervision, you need to warn him or her about the objectionable content he or she may encounter. One of the key recommendations for parents is to keep the computer in a central location in the house. This will enable parents to monitor their child's use of the computer, and provide account-

ability for all of the computer-users in the household.

Pornography sites may pop up during searches of unrelated topics. Some online pornography sites display warnings about the “adult” content of their sites, or require a browser to state that they are over 18 before accessing pornographic material. However, other pornography sites download their material onto a user’s computer screen without warning, with no way to delete it or stop it from downloading, short of turning off the computer. It can be traumatizing to stumble across pornography in this way. The only immediate response when this happens is to turn off the computer.

The Internet creates a forum for adults to pose as children in order to obtain personal information about children or to arrange to meet them without parental supervision. In one incident, a 43 year old American man met a 14 year old girl over the Internet and came to Ottawa to meet her in a hotel room. When the girl’s mother found out about the planned meeting, she and a police officer went to the hotel room and found the man waiting with condoms and sex toys. The man returned to the United States without being charged because the age of consent for sexual activity is 14 years old in Canada.<sup>34</sup>

**Tips for Kids**<sup>35</sup>

- Never give out identifying information such as Name, Home Address, School Name or Telephone Number in a public message such as at a chat room or on bulletin boards. Never send a person a picture of yourself without first checking with your parent or guardian.
- Never respond to messages or bulletin board items that are:
  - Suggestive
  - Obscene
  - Belligerent
  - Threatening
  - Make You Feel Uncomfortable
- Be careful when someone offers you something for nothing, such as gifts and money. Be very careful about any offers that involve your coming to a meeting or having someone visit your house.
- Tell your parent or guardian right away if you come across any information that makes you feel uncomfortable.
- Never arrange a face to face meeting without telling your parent or guardian. If your parent or guardian agrees to the meeting, make sure that you meet in a public place and have a parent or guardian with you.
- Remember that people online may not be who they seem. Because you can’t see or even hear the person it would be easy for someone to misrepresent him- or herself. Thus, someone indicating that “she” is a “12 year old girl” could in reality be an older man.
- Be sure that you are dealing with someone that you and your par-

ents know and trust before giving out any personal information about yourself via e-mail.

- Get to know your “online friends” just as you get to know all of your other friends.

### **Tips for Parents**<sup>36</sup>

- Make sure that the computer in your home is in plain view at all times when your children are using it.
- Talk to your children about what they are doing on the Internet. Warn them about the kinds of objectionable material they could encounter on the Internet. Explaining to them why it is important that they not view such material will help to build on their sense of responsibility.
- Monitor your children’s web activity and impose a penalty if they are caught visiting inappropriate sites.
- Be computer literate. Get to know your computer, even have your kids teach you a little. It will be time well spent with your kids.
- Use blocking or filtering programs for Internet use such as CyberSitter, NetNanny or CyberPatrol. These programs are a good way to make the Internet safer for your children. However, recent studies have stressed that these programs alone are not sufficient to protect children from online pornography.<sup>37</sup>
- Street proof your children on the Internet the same way you street proof your children in your community.
- Be prepared to help your children cope with exposure to inappropriate material.

### **Further Resources for Parents**

Blocking software allows you to limit access to objectionable material on the Internet. Further information on these programs can be found at the websites listed. These programs will not guarantee that your child will not come across objectionable content, but they will help to restrict access to some objectionable Internet sites. (Appearance of a product on this list does not constitute an endorsement.)

Cyber Patrol	<a href="http://www.cyberpatrol.com">www.cyberpatrol.com</a>
Net Nanny	<a href="http://www.netnanny.com">www.netnanny.com</a>
Cyber Snoop	<a href="http://www.pearlsw.com/csnoop/snoop.htm">www.pearlsw.com/csnoop/snoop.htm</a>
Internet Filter	<a href="http://turnercom.com/if">http://turnercom.com/if</a>
CYBERSitter 97	<a href="http://www.solidoak.com">www.solidoak.com</a>
Lifeway Online	<a href="http://info.lifewayonline.com">http://info.lifewayonline.com</a>

Resources and information to help parents protect their kids from objectionable material on the Internet can also be found at [www.netparents.org](http://www.netparents.org).

**APPENDIX “C”**

**Criminal Code Section 163.1**

163.1(1) In this section, “Child Pornography” means

- a) a photographic, film, video or other visual representation, whether or not it was made by electronic or mechanical means,
  - i) that shows a person who is or is depicted as being under the age of eighteen years and is engaged in or is depicted as *engaged in explicit sexual activity*, or
  - ii) the dominant characteristic of which is the depiction, *for a sexual purpose*, of a sexual organ or the anal region of a person under the age of eighteen years; or
- b) any written material or visual representation that advocates or counsels sexual activity with a person under the age of eighteen years that would be an offence under this Act.

(2) Every person who makes, prints, publishes or possesses *for the purpose of publication* any child pornography is guilty of

- a) an indictable offence and liable to imprisonment for a term not exceeding ten years; or
- b) an offence punishable on summary conviction.

(3) Every person who imports, distributes, sells or possesses *for the purpose of distribution* or sale any child pornography is guilty of

- a) an indictable offence and liable to imprisonment for a term not exceeding ten years; or
- b) an offence punishable on summary conviction.

(4) Every person who possesses any child pornography is guilty of

- a) an indictable offence and liable to imprisonment for a term not exceeding five years;<sup>38</sup> or
- b) an offence punishable on summary conviction.

(5) It is not a defence to a charge under subsection (2) in respect of a visual representation that the accused believed that a person shown in the representation that is alleged to constitute child pornography was or was depicted as being eighteen years of age or more unless the accused took all reasonable steps to ascertain the age of that person and took all reasonable steps to ensure that, where the person was eighteen years of age or more, the representation did not depict that person as being under the age of eighteen years.

(6) Where the accused is charged with an offence under subsection (2), (3) or (4), the court shall find the accused not guilty if the representation or written material that is alleged to constitute child pornography has artis-

tic merit or an educational, scientific or medical purpose.

- (7) Subsections 163(3) to (5) apply, with such modifications as the circumstances require, with respect to an offence under subsection (2), (3) or (4).  
(*emphasis added*)

Sections 163(3) to (5) state:

163(3) No person shall be convicted of an offence under this section if the public good was served by the acts that were alleged to constitute the offence and if the acts alleged did not extend beyond what served the public good.

- (4) For the purposes of this section, it is a question of law whether an act served the public good and whether there is evidence that the act alleged went beyond what served the public good, but it is a question of fact whether the acts did or did not extend beyond what served the public good.

- (5) For the purposes of this section, the motives of an accused are irrelevant.

## **APPENDIX “D”**

### **Q & A: Responding to arguments against the child pornography legislation**

The case of John Robin Sharpe, the B.C. man who made a *Charter* challenge to the child pornography laws, has brought out criticism of those laws. Mr. Sharpe believes that child pornography is acceptable, and that the laws against child pornography violate his *Charter* rights. The Supreme Court of Canada upheld the criminal prohibition on possession of child pornography. Chief Justice McLachlin created two exceptions to this prohibition, both focused on exempting written or visual material that was not created illegally and is used only by its creator. This exempts so-called “creations of the mind”. In addition, the Chief Justice defined the “artistic merit” defence very broadly so as to exempt from the criminal law writings and visual images that have “any objectively established artistic value.”

This section of the discussion paper will address arguments against child pornography laws raised by the *Sharpe* case, as well as other concerns about the legislation.

**Q. Mr. Sharpe argued that the law prohibiting the possession of child pornography violated his right to privacy. Does the child pornography law violate freedom of expression and the right to privacy?**

**A.** Section 2(b) of the *Charter* guarantees that everyone has the fundamental freedom of thought, belief, opinion and expression. Canadian courts have consistently stated that all forms of expression, no matter how objectionable or distasteful, are constitutionally protected. The only exception to this general rule applies to violent forms of expression, which are not constitutionally protected. This means that the criminal prohibition on child pornography does violate the *Charter* guarantee of freedom of expression.

Freedom of expression is not absolute, however. It may be limited if the limits are shown to be “justified in a free and democratic society” as set out in section 1 of the *Charter*, the general limitation clause.

Our courts give less protection to expression that is only tenuously connected to the purposes underlying the *Charter*’s protection of free expression. These purposes include:

- (1) seeking and attaining the truth;
- (2) participation in social and political decision-making; and
- (3) individual self-fulfillment and human flourishing both for those who convey a meaning, and for those to whom it is conveyed.<sup>39</sup>

Child pornography does not fit within any of these purposes. It should therefore not attract a high level of constitutional protection.

Our courts have also recognized that they may consider the impact of the expression on other people’s *Charter* rights when considering whether or not a law places unnecessary limits on freedom of expression. Thus, in *R. v. Butler*, a case involving prohibitions against obscene material, the court considered the impact of obscene material on women’s equality rights. Similarly in *R. v. Zundel* and *R v. Keegstra*, the courts considered the impact of hate speech on the equality rights of minority religious and ethnic communities. In a similar way, child pornography undermines the equality rights of children by treating them as sexual objects to be exploited, rather than as human beings deserving of protection, dignity and respect. Child pornography, in all its forms, is used by paedophiles to justify or rationalize abuse of children. It is also used to groom children to be abused by paedophiles.

Opponents of the child pornography law argue that allowing police to search a person’s home and seize his or her private collections is a profound invasion of privacy, which ought not to be permitted in a free and democratic society. They emphasize the private nature of possessing child pornography, and ignore or overlook the fact that child pornography is not simply privately possessed. Rather it is shared with other collectors of child pornography, including paedophiles.

**Q. The story of an Ottawa father arrested for taking inappropriate photos of his son raises fears that the child pornography laws go too far and criminalize innocent pictures of nude children. Will these laws put parents in jail for taking pictures of their children in the bath?**

**A**n Ottawa man faces charges of manufacturing pornography for several photos he claims were innocent shots of his four-year-old son.

Andrzej Mikuta was arrested last month when a Costco photo lab employee alerted Ottawa-Carleton police after finding four nude photos of Mr. Mikuta's son among shots of the child playing in the snow and photographs of the neighbours' dog. . . .

Mr. Mikuta says the photos show his son "goofing around in the living room." Sources close to the case said the photos show the naked boy in various poses, ranging from him sitting on the couch to him bending over with his bare buttocks toward the camera.

"It's a terrible story," said Mr. Mikuta, a married Ottawa father of two who calls photography a hobby. "There's nothing wrong with those pictures. He's still a baby – he's a four-year-old boy."

*(National Post, March 21, 2000)*

**A.** The definition of child pornography is limited in a number of respects. Child pornography is defined as:

- (a) a photographic, film, video or other visual representation, whether or not it was made by electronic or mechanical means,
  - (i) that shows a person who is or is depicted as being under the age of eighteen years and is engaged in or is depicted as engaged in explicit sexual activity, or
  - (ii) the dominant characteristic of which is the depiction, for a sexual purpose, of a sexual organ or the anal region of a person under the age of eighteen years;<sup>40</sup> or
- (a) any written material or visual representation that advocates or counsels sexual activity with a person under the age of eighteen years that would be an offence under this act.<sup>41</sup>

In order to be considered child pornography, a number of elements must be present. First, the photograph, film or other visual representation must depict a child. In other words, the person shown must be under the age of 18 years or depicted as such. Secondly, he or she must be engaged or depicted as being engaged in explicit sexual activity. A picture of two siblings hugging, or a picture of a child giving a parent a bedtime kiss will not constitute child pornography.

A photograph or other visual representation will constitute child pornography if a dominant characteristic is the depiction of the child's sexual organ or anal region, and this for a sexual purpose. A picture of a naked toddler in a bathtub will not automatically constitute child pornography. Nor will a picture of a small child streaking diaperless across her bedroom. The *Criminal Code* has defined child pornography in such a way as to ensure that innocent pictures will not be caught. Only those pictures that tend toward or contribute to the sexual exploitation of children will be considered child pornography.

Enforcement of any law involves reasonable human judgment. In the case of the Ottawa father, the charges were dropped after further investigation.

**Q. The Supreme Court of Canada upheld the prohibition on possession of child pornography using actual children. What harm is done if actual children aren't used in the making of child pornography? How harmful are "works of the imagination"?**

**A.** While it may be true that "works of the imagination" can be produced without using actual children as models, their effects may be just as harmful as works that do use actual children.

Expert witnesses have testified that child pornography causes harm to children in a number of respects. First, child pornography may be used by some paedophiles in the grooming process leading up to the sexual abuse of children. Second, child pornography may be used to reinforce the cognitive distortions of paedophiles. Third, child pornography may incite some paedophiles to commit sexual offences against children. These risks are present, regardless of whether the child pornography in question involves the use of actual children or whether the drawing or story is simply a work of the author's imagination. So-called "cyberporn", created using computer animation, can pose significant risks to children.

Paedophiles suffer from cognitive distortions, which may be ever present, and which may be fuelled by certain images or word pictures. Paedophiles themselves may have no control over the types of material that stimulate them. To suggest that prohibiting possession of works of the imagination renders our child pornography law too broad is to ignore the fact that our child pornography law is concerned not only with the prevention of direct sexual abuse of children, but also with limiting the risk that children will be sexually abused and exploited. Permitting collectors of child pornography, including paedophiles, to possess short stories, sketches and other works of the imagination depicting the sexual exploitation of children can only reinforce the idea that children are the appropriate objects of adult sexual gratification and reinforce paedophiles' cognitive distortions that adult-child sexual activity is both appropriate and desirable.

To say that child pornography that does not use actual children poses no threat of harm is a terrible fiction.

There are several defenses to charges of child pornography that limit the breadth of the legislation. One of these defences, the artistic merit defence, was addressed by the court in the *Eli Langer* case. The court suggested factors to help determine artistic merit, such as the purpose and integrity of the artist, the technical merit of the work and whether the depiction potentially provides something of merit to the viewer. The Supreme Court of Canada broadened the artistic merit defence in the *Sharpe* case. Chief Justice McLachlin ruled that “any objectively established artistic value, however small, suffices to support the defence.” When the B.C. Supreme Court ruled on the *Sharpe* case the second time, the judge allowed the artistic merit defence for Mr. Sharpe’s fictional stories depicting rape and torture of children on the basis of testimony from literary experts. These experts argued that there was some literary merit in the stories because they had basic elements of plot and character development, albeit these were poorly done.

According to Detective Inspector Robert Matthews of the Ontario Provincial Police Child Pornography Unit, officers in his unit do not lay charges in cases where an argument for artistic merit can be made.

**Q. Isn’t preventing the possession of self-written stories too broad a limit on freedom of expression? If we have a ban on literature that depicts sexual acts between adults and children, we will restrict classic literature like *Lolita*?**

**A.** Justice Shaw, of the B.C. Supreme Court, ruled that stories depicting sexual abuse and torture of children were not “child pornography” within the meaning of section 163.1 unless they actually advocated sexual exploitation of children. Merely depicting sexual abuse of children in a positive light was not enough to trigger the child pornography section. The effect of this ruling is that very few stories depicting sexual acts between adults and children will be criminalized.

The EFC believes that this ruling goes too far in the wrong direction. Evidence shows that even self-written stories are used by paedophiles to rationalize their actions in sexually abusing children. The EFC takes the position that if a story or drawing can reasonably be expected to be used by paedophiles in abusing or harming children, the law should err on the side of child protection.

**Q. There is a theory that child pornography can have a cathartic effect for some child molesters, allowing them to relieve pent up sexual tensions without acting out their fantasies. In the lower court deci-**

sion in the *Sharpe* case, the trial judge gave greater weight to social science research on the cathartic effect of child pornography than to research which found that child pornography incites offences.<sup>42</sup> What about studies indicating that pornography may have a cathartic effect for some child molesters?

**A.** A meta-analysis of 74 studies on the effects of pornography by the National Foundation for Family Research and Education found “compelling evidence that exposure to pornography tends to have a negative impact on human development and behaviour.” This analysis specifically considered the catharsis model but did not find support for it in the meta-analysis it conducted. The authors state: “Specifically, viewing pornographic stimuli does not seem to prevent the acting out of inappropriate or aggressive sexual fantasies.”<sup>43</sup>

In fact, in research noted above, Dr. Bill Marshall of Queen’s University has found that viewing child pornography incites the molestation of children. Dr. Marshall found that very sexually explicit materials incited sex offenders to offend and was used to fuel their fantasies as they prepared to offend.<sup>44</sup>

**Q. If making and distributing child pornography is illegal, is a separate law on possession of child porn necessary?**

**A.** Canadian law enforcement officials maintain that prohibition of the possession of child pornography is essential to law enforcement activities. As the Canadian Police Association, the Canadian Association of Chiefs of Police and Canadians Against Violence argued before the Supreme Court of Canada in the *Sharpe* case:

...criminalization of the possession of child pornography ... is the linchpin to law enforcement of the section as a whole because unlike the adult commercial pornography industry, the child pornography industry operates principally through the Internet ... If possession of child pornography were legal, the police would be unable to obtain search warrants to seize the very computers which contain the evidence which establish the distribution and creation of child pornography.<sup>45</sup>

Given the virtual nature of the creation and distribution of child pornography via computers and the Internet, the ability to seize computers and computer files is an important aspect of law enforcement. Failure to prohibit possession of child pornography will result in a failure to control the market for such material, thereby encouraging the creation and distribution of child pornography, and placing larger numbers of children at risk.

## Endnotes

- 1 Susanne Hiller, "Madam Justice Southin not known to back down," *National Post*, July 1, 1999.
- 2 For more information on postmodernism see Stanley J. Grenz, *A Primer on Postmodernism*, Eerdmans, Grand Rapids, 1996.
- 3 *Re Paintings, Drawings and Photographs Slides of Paintings by Eli Langer*, [1995] O.R. No. 1045 (Ont. Gen. Div.).
- 4 *Ibid.* at paragraph 34.
- 5 *R. v. Sharpe*, (2001), 150 C.C.C. (3d) 321 (S.C.C.).
- 6 *R. v. Sharpe*, [2002] B.C.S.C. 423.
- 7 David Pugliese, "Porn goes mainstream," *The Citizen's Weekly*, February 21, 1999, C3.
- 8 Jack Aubry, "Public blase about porn: Skin magazines get more explicit but Canadians don't seem to care," *Ottawa Citizen*, September 20, 1998.
- 9 Telephone interview with Detective Inspector Robert Matthews, May 9, 2000.
- 10 In its report entitled *International Dimensions of the Sexual Exploitation of Children*, ECPAT stated, at page 21: "The recent proliferation of child pornography on the Internet adds a new twist to the globalisation of the problem. Sexual exploitation of children through such means is infinitely replicable and can be transmitted instantaneously across the globe with the flick of a switch or the touch of a button."
- 11 *R. v. Sharpe*, (1999), 169 D.L.R. (4th) 536, 22 C.R. (5th) 129, 58 C.R.R. (2d) 261 (B.C.S.C.).
- 12 Derek Baldwin, "CyberAngels hunt down paedophiles on the Net," *National Post*, February 18, 1999.
- 13 Factum of the Interveners Canadian Police Association, Canadian Association of Chiefs of Police and Canadians Against Violence submitted to the Supreme Court of Canada hearing of *R. v. Sharpe*, paragraph 7.
- 14 *Ibid.*, paragraph 7.
- 15 Ontario Provincial Police Child Pornography Unit, Press Release, December 23, 1997.
- 16 Ontario Provincial Police Child Pornography Unit, Press Release, April 22, 1998.
- 17 "Sex sells, but Internet porn sites prefer Disney," *National Post*, March 8, 1999.
- 18 E. Oddone Paolucci, M. Genuis and C. Violato, *The Effects of Pornography on Attitudes and Behaviours in Sexual and Intimate Relationships*, National Foundation for Family Research and Education, Calgary, Alberta, 1999, p. 18.
- 19 J.R. Robertson, *Pornography*, Current Issue Review, Library of Parliament, August 15, 1996.
- 20 ECPAT is an international advocacy network which was originally formed to address child prostitution in Asian tourism. The organization's acronym stood for End Child Prostitution in Asian Tourism. In 1996, the organization's mandate widened to include child pornography and the trafficking of children for sexual purposes with an international focus.
- 21 ECPAT, "Child Pornography on the Internet," [www.ecpat.net](http://www.ecpat.net), September 2000.
- 22 *R. v. K.L.V.*, [1999] A.J. No. 350 (Alta. Q.B.).
- 23 *Ibid.* at paragraph 22.
- 24 T. Ward, K. Loudon, S.M. Hudson and W.L. Marshall, "A Descriptive Model of the Offense Chain for Child Molesters," *Journal of Interpersonal Violence*, v. 10, no. 4, pp. 452-472, December 1995.
- 25 W.L. Marshall and H.E. Barbaree, "An Integrated Theory of the Etiology of Sexual Offending." In W.L. Marshall, D.R. Laws and H.E. Barbaree (Eds.), *Handbook of Sexual Assault: Issues, Theories, and Treatment of the Offender*. New York: Plenum Press, 1990. See also *The use of pornography by rapists and child molesters* by W.L. Marshall. Report to the Policy, Planning and Development Branch of the Canadian Department of Justice, Ottawa, 1983.
- 26 W.L. Marshall, "The Use of Sexually Explicit Stimuli by Rapists, Child Molesters, and Nonoffenders," *The Journal of Sex Research*, v. 25, no. 2, pp. 267-288, May 1988.
- 27 M.H. Silbert and A.M. Pines, "Pornography and sexual abuse of women," *Sex Roles*, v. 10, pp. 857-868, 1984.
- 28 Derek Baldwin, "CyberAngels hunt down paedophiles on the Net," *National Post*, February 18, 1999.
- 29 Jane E. Brody, "Cybersex addiction is identified as a 'disorder'," *National Post*, May 18, 2000.

- 30 UNESCO, Preface, *Protecting children on line, Final Report, Declaration and Action Plan*, Paris, January 18-19, 1999.
- 31 *The Journal of Homosexuality* v. 20, nos. 1&2, 1990.
- 32 *The Summary Report of the Special Advisor to the Minister of National Health and Welfare on Child Sexual Abuse in Canada: Reaching for Solutions*, Minister of Supply and Services Canada, 1999, p.9.
- 33 *Ibid.*, p.15.
- 34 “Ministers tackle question of proper age for sex,” *Ottawa Citizen*, December 5, 1997.
- 35 Adapted from the Ontario Provincial Police Child Pornography Unit website [www.gov.on.ca/opp/projp/english/safety.htm](http://www.gov.on.ca/opp/projp/english/safety.htm)
- 36 Adapted from the Ontario Provincial Police Child Pornography Unit web site and from “Youth, Pornography and the Internet,” A Report of the U.S. National Research Council, 2002.
- 37 “No Single Solution for Protecting Kids From Online Pornography,” National Academies (U.S.) News Release, May 2, 2002. [www4.nationalacademies.org/news.nsf/isbn/0309082749?Open.Document](http://www4.nationalacademies.org/news.nsf/isbn/0309082749?Open.Document)
- 38 The penalty for simple possession of child pornography is less severe than the penalty for possessing child pornography for the purpose of sale or distribution, reflecting the seriousness of the offence.
- 39 *Irwin Toy Ltd v. Quebec (Attorney General)*, [1989] 1 S.C.R. 927.
- 40 Thus, pictures of children during bath time, or pictures of a toddler running naked on a beach will not constitute child pornography unless they were produced for a sexual purpose.
- 41 Such sexual offences include Sexual Interference (section 151), Invitation to Sexual Touching (152), Sexual Exploitation (153), Incest (154), Anal Intercourse (159), Bestiality (160), Parent or Guardian Procuring Sexual Activity (170), Householder Permitting Sexual Activity (171), Indecent Acts (173).
- 42 *R. v. Sharpe*, (1999), 169 D.L.R. (4th) 536, 22 C.R. (5th) 129, 58 C.R.R. (2d) 261 (B.C.S.C.)
- 43 Oddone Paolucci, Genuis and Violato (1999), p.18.
- 44 Marshall (1988).
- 45 Factum of the Interveners Canadian Police Association, Canadian Association of Chiefs of Police and Canadians Against Violence in *R. v. Sharpe*, Supreme Court of Canada, at paragraphs 33, 34.

